

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICARDO TOLSON,

Petitioner,

v.

Case No. 10-CV-14114
HON. GEORGE CARAM STEEH

CINDI S. CURTIN,

Respondent.

_____/

ORDER DENYING PETITIONER'S MOTION (#14) WITHOUT PREJUDICE

On October 13, 2010, petitioner filed this application for writ of habeas corpus. On April 27, 2011, respondent filed a response. On November 9, 2012, Magistrate Judge Komives issued a thirty-four page report and recommendation that petitioner's application for writ of habeas corpus be denied and that petitioner be denied a certificate of appealability. The objection deadline passed and no objections were filed. The court reviewed the report and recommendation and adopted it in its entirety. Judgment was entered for the respondent on December 4, 2012.

On December 13, 2012, the court received a document from petitioner indicating that he mailed objections to the report and recommendation on November 28, 2012. Petitioner asked that the judgment be vacated and that his objections be considered timely filed. The court has never received petitioner's objections. The objections are not

attached as an exhibit to petitioner's December 13, 2012 filing. The court construes petitioner's filing as a motion to vacate judgment and DENIES it without prejudice.

SO ORDERED.

Dated: March 6, 2013

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 6, 2013, by electronic and/or ordinary mail and upon Ricardo Tolson, #271524, Oaks Correctional Facility, 1500 Caberfae Highway, Manistee, Michigan 49660-9200.

s/Barbara Radke
Deputy Clerk